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Tustin mayor letter oppose SB 54

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Office of the City Council



March 22, 2017

Honorable Kevin de Leon
California State Senate
California State Capitol
Sacramento, CA 95814

RE: Senate Bill 54 (Oppose as amended 3/6/17)

Senate President Pro Tempore de Leon:

The City of Tustin regrets to inform you of our opposition to Senate Bill (SB) 54, which would limit California law enforcement from using agency or department moneys, facilities, property, equipment, or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes. Although immigration enforcement is not the duty of state or local law enforcement, these restrictions will have negative consequences and threaten to create safety concerns within our communities.

Public safety is the primary concern of local law enforcement, not immigration. Legally, California's law enforcement agencies lack the authority and jurisdiction to enforce federal immigration law. Beyond the legal limitations, any attempt by local law enforcement to target non-criminals for immigration violations would only erode public trust and curtail the ability of our departments to carry out their primary mission. Because community relationships are so important, the California Police Chiefs Association has a track record of standing behind California's large immigrant community, which includes supporting legislation to allow undocumented immigrants to obtain a driver license, and shield victims of human trafficking from deportation. However, there are instances when providing public safety entails partnering with federal law enforcement agencies, including immigration enforcement.

Consistent with existing state laws and current department procedures, we strongly believe that undocumented immigrants who commit violent and serious offenses against members of our community should be subject to the immigration laws of this country. By doing so, we prevent dangerous individuals from creating more victims – including within our own immigrant communities. As such, our departments routinely engage with federal law enforcement agencies – including Immigration and Customs Enforcement (ICE) and Homeland Security Investigations (HSI) – for the purpose of eliminating drugs, violence, and crime from our streets.

Currently, local law enforcement agencies have the discretion to partner with ICE or HSI, and do so through targeted operations to apprehend identified criminals. For example, ICE may request tactical support from a local police department during an operation to arrest members of a gang or drug cartel for civil or criminal immigration violations. Additionally, local law enforcement also engages in federal joint task forces with various federal law enforcement agencies, including ICE and HSI. These task forces all focus on organized crime, human trafficking and national security; however, immigration enforcement often plays a role in carrying out those missions. For instance, if during a joint investigation into a drug trafficking operation, HSI or ICE identifies one of the suspects as an individual with an immigration violation, the task force may use that violation to apprehend that suspect. In those such instances, it is typical for local law enforcement to supply information, resources, or even manpower to physically assist in making the arrest. In every case, these are fluid and dynamic partnerships that require constant communication.

SB 54 creates roadblocks, hurdles, and ambiguity when it comes to local law enforcement's participation in any of the examples above. Under the proposed Government Code Section 7284.6(b)(2), SB 54 does appear to exempt local law enforcement agencies who are "(p)articipating in a joint law enforcement task force, so long as the purpose of the joint law enforcement task force is not immigration enforcement." However, what this section does not clearly elucidate what "the purpose" of the task force would be considered.

The intent of SB 54 is to prevent local law enforcement from ANY immigration enforcement, so it is unclear whether 7284.6(b)(2) distinguishes the overall purpose of the federal-state collaboration from the incidental operations that may be utilized to achieve that purpose. In the task force example from above, it is unclear whether "the purpose" would be considered reducing drug trafficking (the overall mission), or immigration enforcement (the operation). If the latter, it is also unclear what reduced role local law enforcement would have to take in the task force - would we be forced to simply recuse ourselves from making the physical arrest, or would we be forced to sever all ties with the operation at that point, including blocking any information sharing? Moreover, during a collaboration with ICE to serve a criminal warrant, local police should not be liable if ICE makes any additional detentions after the discovery of an immigration violation. Again, in this example, it would be unclear how local law enforcement should limit their participation. In total, the task force exemption does not adequately protect our ability to maintain these partnerships, even when the focus is on major crimes.

An equal, if not greater concern, is the unintended consequence SB 54 will have by preventing ICE from conducting immigration enforcement operations in our jail facilities. Currently, jails in California may allow ICE access to specified inmates, but the state agency overseeing the jail must provide those inmates with a notification of their rights. Under SB 54, ICE will no longer be allowed access to our jails for immigration enforcement purposes. As a result, ICE will be forced to carry out more field operations in our communities. Even during targeted

immigration operations, this will result in more collateral detentions – where undocumented individuals at the scene of an arrest and were not the initial targets are detained by ICE. These collateral detentions often cause the most confusion and fear amongst our immigrant communities, and any increase is likely to cause additional problems. Furthermore, forcing ICE to make public arrests does not actually prevent detentions, but instead only increases the likelihood of escalated situations that may lead to dangerous encounters in our neighborhoods. Although SB 54 does allow state prisons and jails to notify the Federal Bureau of Investigations of the release date of violent felons, or those in custody with violent felony priors, that does not include those who may have multiple significant misdemeanors – such as spousal abuse or child endangerment – and it still limits our ability to make the transfer in a safe custodial setting. Clearly, the cost of removing

ICE from our jails, where they can focus solely on convicted criminals, does not outweigh any perceived benefits to our immigrant communities.

California law enforcement agencies have no intention, or desire, to become the primary enforcers of federal immigration law. Even under ongoing federal changes, local police will keep doing what local police do best – partnering with our community members to ensure everyone is protected. The City of Tustin does recognize that there is a balance that needs to be struck on immigration enforcement – one that takes the focus away from those not posing a threat, and allows law enforcement to expend resources protecting our communities from those with ill-intent. Unfortunately, SB 54 will make it more difficult to work with our federal law enforcement partners in apprehending dangerous criminals, and threatens to create more fear in our communities by forcing federal immigration operations out of our jails and into our communities. For those reasons, The City of Tustin must oppose SB 54.

Thank you for your consideration.

Thank you,



Dr. Allan Bernstein

Mayor

City of Tustin